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Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

Report of the Sixth Committee

Rapporteur: Ms. Anna **Sotaniemi** (Finland)

I. Introduction

1. The item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization" was included in the provisional agenda of the fifty-ninth session of the General Assembly pursuant to Assembly resolution 58/248 of 23 December 2003.

2. At its 2nd plenary meeting, on 17 September 2004, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 3rd, 4th, 6th, 24th and 26th meetings, on 7, 8 and 14 October and 8 and 17 November 2004. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/59/SR.3, 4, 6, 24, and 26).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;[1]

(b) Report of the Secretary-General on the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* (A/59/189);

* Reissued for technical reasons.
[1] *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 33* (A/59/33).

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(c) Report of the Secretary-General on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions (A/59/334).

5. At the 3rd meeting, on 7 October, the Chairman of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization introduced the report of the Special Committee (see A/C.6/59/SR.3).

II. Consideration of proposals

A. Draft resolution A/C.6/59/L.17

6. At the 24th meeting, on 8 November, the representative of Egypt introduced a draft resolution entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization" (A/C.6/59/L.17).

7. At the 26th meeting, on 17 November, the Secretary of the Committee made a statement regarding the programme budget implications of the draft resolution (see A/C.6/59/SR.26).

8. At the same meeting, the Committee adopted draft resolution A/C.6/59/L.17 without a vote (see para. 11, draft resolution I).

B. Draft resolution A/C.6/59/L.18

9. At the 24th meeting, on 8 November, the representative of Ukraine, on behalf of Belarus, Brazil, Bulgaria, Chile, China, Egypt, the Russian Federation, Turkey, Uganda and Ukraine, subsequently joined by the former Yugoslav Republic of Macedonia, introduced a draft resolution entitled "Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions" (A/C.6/59/L.18).

10. At its 26th meeting, on 17 November, the Committee adopted draft resolution A/C.6/59/L.18 without a vote (see para. 11, draft resolution II).

III. Recommendations of the Sixth Committee

11. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I
Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

The General Assembly,

Recalling its resolution 3499 (XXX) of 15 December 1975, by which it established the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and its relevant resolutions adopted at subsequent sessions,

Recalling also its resolution 47/233 of 17 August 1993 on the revitalization of the work of the General Assembly,

Recalling further its resolution 47/62 of 11 December 1992 on the question of equitable representation on and increase in the membership of the Security Council,

Taking note of the report of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters Related to the Security Council,[1]

Recalling the elements relevant to the work of the Special Committee contained in its resolution 47/120 B of 20 September 1993,

Recalling also its resolution 51/241 of 31 July 1997 on the strengthening of the United Nations system and its resolution 51/242 of 15 September 1997, entitled "Supplement to an Agenda for Peace", by which it adopted the texts on coordination and the question of sanctions imposed by the United Nations, which are annexed to that resolution,

Recalling further that the International Court of Justice is the principal judicial organ of the United Nations, and reaffirming its authority and independence,

Considering the desirability of finding practical ways and means to strengthen the Court, taking into consideration, in particular, the needs resulting from its increased workload,

Taking note of the ongoing debate on the revised working papers on the working methods of the Special Committee,

Taking note also of the report of the Secretary-General on the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*,[2]

Recalling its resolution 58/248 of 23 December 2003,

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[1] *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 47* (A/56/47).
[2] A/59/189.

Having considered the report of the Special Committee on the work of its session held in 2004,[3]

Noting with appreciation the work done by the Special Committee to encourage States to focus on the need to prevent and to settle peacefully their disputes which are likely to endanger the maintenance of international peace and security,

1. *Takes note* of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;[3]

2. *Decides* that the Special Committee shall hold its next session from 14 to 24 March 2005;

3. *Requests* the Special Committee, at its session in 2005, in accordance with paragraph 5 of General Assembly resolution 50/52 of 11 December 1995:

(a) To continue its consideration of all proposals concerning the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the United Nations and, in this context, to consider other proposals relating to the maintenance of international peace and security already submitted or which may be submitted to the Special Committee at its session in 2005;

(b) To continue to consider, on a priority basis and in an appropriate substantive manner and framework, the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter based on all of the related reports of the Secretary-General[4] and the proposals submitted on the question;

(c) To keep on its agenda the question of the peaceful settlement of disputes between States;

(d) To continue to consider proposals concerning the Trusteeship Council in the light of the report of the Secretary-General submitted in accordance with General Assembly resolution 50/55 of 11 December 1995,[5] the report of the Secretary-General entitled "Renewing the United Nations: a programme for reform"[6] and the views expressed by States on this subject at previous sessions of the Assembly;

(e) To continue to consider, on a priority basis, ways and means of improving its working methods and enhancing its efficiency with a view to identifying widely acceptable measures for future implementation;

4. *Invites* the Special Committee at its session in 2005 to continue to identify new subjects for consideration in its future work with a view to contributing to the revitalization of the work of the United Nations;

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[3] *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 33* (A/59/33).

[4] A/48/573-S/26705, A/49/356, A/50/60-S/1995/1, A/50/361, A/50/423, A/51/317, A/52/308, A/53/312, A/54/383 and Add.1, A/55/295 and Add.1, A/56/303, A/57/165 and Add.1, A/58/346 and A/59/334.

[5] A/50/1011.

[6] A/51/950 and Add.1-7.

5. *Notes* the readiness of the Special Committee to provide, within its mandate, such assistance as may be sought at the request of other subsidiary bodies of the General Assembly in relation to any issues before them;

6. *Requests* the Special Committee to submit a report on its work to the General Assembly at its sixtieth session;

7. *Takes note* of paragraphs 10 and 17 of the report of the Secretary-General;[2]

8. *Endorses* the efforts of the Secretary-General to eliminate the backlog in the publication of the *Repertoire of the Practice of the Security Council*;

9. *Requests* the Secretary-General to establish a trust fund to eliminate the backlog of the *Repertory of Practice of United Nations Organs*, which shall accept voluntary contributions by States, private institutions and individuals;

10. *Also requests* the Secretary-General to continue his efforts, within the level of the currently approved budget, towards making available electronically all versions of the *Repertory of Practice of United Nations Organs* as early as possible;

11. *Further requests* the Secretary-General to submit a report on both the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* to the General Assembly at its sixtieth session;

12. *Decides* to include in the provisional agenda of its sixtieth session the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".

Draft resolution II
Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions

The General Assembly,

Concerned about the special economic problems confronting certain States arising from the carrying out of preventive or enforcement measures taken by the Security Council against other States, and taking into account the obligation of Members of the United Nations under Article 49 of the Charter of the United Nations to join in affording mutual assistance in carrying out the measures decided upon by the Security Council,

Recalling the right of third States confronted with special economic problems of that nature to consult the Security Council with regard to a solution of those problems, in accordance with Article 50 of the Charter,

Recognizing the desirability of the consideration of further appropriate procedures for consultations to deal in a more effective manner with the problems referred to in Article 50 of the Charter,

Recalling:

(a) The report of the Secretary-General entitled "An Agenda for Peace",[1] in particular paragraph 41 thereof,

(b) Its resolution 47/120 A of 18 December 1992, entitled "An Agenda for Peace: preventive diplomacy and related matters", its resolution 47/120 B of 20 September 1993, entitled "An Agenda for Peace", in particular section IV thereof, entitled "Special economic problems arising from the implementation of preventive or enforcement measures", and its resolution 51/242 of 15 September 1997, entitled "Supplement to an Agenda for Peace", in particular annex II thereto, entitled "Question of sanctions imposed by the United Nations",

(c) The position paper of the Secretary-General entitled "Supplement to an Agenda for Peace",[2]

(d) The statement by the President of the Security Council of 22 February 1995,[3]

(e) The report of the Secretary-General[4] prepared pursuant to the statement by the President of the Security Council[5] regarding the question of special economic problems of States as a result of sanctions imposed under Chapter VII of the Charter,

(f) The annual overview reports of the Administrative Committee on Coordination for the period from 1992 to 2000[6] and the annual overview reports of

[1] A/47/277-S/24111.
[2] A/50/60-S/1995/1.
[3] S/PRST/1995/9; see *Resolutions and Decisions of the Security Council, 1995*.
[4] A/48/573-S/26705.
[5] S/25036; see *Resolutions and Decisions of the Security Council, 1992*.
[6] E/1993/81, E/1994/19, E/1995/21, E/1996/18 and Add.1, E/1997/54 and Corr.1, E/1998/21, E/1999/48, E/2000/53 and E/2001/55.

the United Nations System Chief Executives Board for Coordination for 2001 to 2003,[7] in particular the sections on assistance to countries invoking Article 50 of the Charter,

(g) The reports of the Secretary-General on economic assistance to States affected by the implementation of the Security Council resolutions imposing sanctions against the Federal Republic of Yugoslavia[8] and General Assembly resolutions 48/210 of 21 December 1993, 49/21 A of 2 December 1994, 50/58 E of 12 December 1995, 51/30 A of 5 December 1996, 52/169 H of 16 December 1997, 54/96 G of 15 December 1999, 55/170 of 14 December 2000 and 56/110 of 14 December 2001,

(h) The reports of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization on the work of its sessions held in the years 1994 to 2004,[9]

(i) The reports of the Secretary-General on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter,[10]

(j) The report of the Secretary-General to the Millennium Assembly of the United Nations,[11] in particular section IV.E thereof, entitled "Targeting sanctions",

(k) The United Nations Millennium Declaration,[12] in particular paragraph 9 thereof,

(l) The report of the Secretary-General entitled "Road map towards implementation of the United Nations Millennium Declaration",[13] in particular paragraphs 56 to 61 thereof,

(m) The report of the Committee for Programme and Coordination on the work of its forty-third session, in particular the recommendation that the Chief Executives Board play a role in better coordinating the analysis of the problems of the countries invoking Article 50 of the Charter, and the development of new methodologies to identify the damage to affected States and new mechanisms to determine the appropriate compensation for them,[14]

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[7] E/2002/55, E/2003/55 and E/2004/67.

[8] A/49/356, A/50/423, A/51/356, A/52/535, A/54/534, A/55/620 and Corr.1, A/56/632 and A/58/358.

[9] *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 33* (A/49/33); ibid., *Fiftieth Session, Supplement No. 33* (A/50/33); ibid., *Fifty-first Session, Supplement No 33* (A/51/33); ibid., *Fifty-second Session, Supplement No. 33* and corrigendum (A/52/33 and Corr.1); ibid., *Fifty-third Session, Supplement No. 33* (A/53/33); ibid., *Fifty-fourth Session, Supplement No. 33* and corrigendum (A/54/33 and Corr.1); ibid., *Fifty-fifth Session, Supplement No. 33* (A/55/33); ibid., *Fifty-sixth Session, Supplement No. 33* (A/56/33); ibid., *Fifty-seventh Session, Supplement No. 33* (A/57/33); ibid., *Fifty-eighth Session, Supplement No. 33* (A/58/33); and ibid., *Fifty-ninth Session, Supplement No. 33* (A/59/33).

[10] A/50/361, A/51/317, A/52/308, A/53/312, A/54/383 and Add.1, A/55/295 and Add.1, A/56/303, A/57/165 and Add.1, A/58/346 and A/59/334.

[11] A/54/2000.

[12] See resolution 55/2.

[13] A/56/326; see also the report of the Secretary-General on the implementation of the United Nations Millennium Declaration (A/58/323), para. 23.

[14] *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 16* (A/58/16), para. 581.

Taking note of the report of the Secretary-General on the work of the Organization,[15] in particular paragraphs 78 to 81 thereof,

Recalling that the question of assistance to third States affected by the application of sanctions has been addressed recently in several forums, including the General Assembly, the Security Council, the Economic and Social Council and their subsidiary organs,

Recalling also the measures taken by the Security Council, in accordance with the statement by the President of the Security Council of 16 December 1994,[16] that, as part of the effort of the Council to improve the flow of information and the exchange of ideas between members of the Council and other States Members of the United Nations, there should be increased recourse to open meetings, in particular at an early stage in its consideration of a subject,

Recalling further the measures taken by the Security Council in accordance with the note by the President of the Security Council of 29 January 1999[17] aimed at improving the work of the sanctions committees, including increasing the effectiveness and transparency of those committees,

Stressing that, in the formulation of sanctions regimes, due account should be taken of the potential effects of sanctions on third States,

Stressing also, in this context, the powers of the Security Council under Chapter VII of the Charter and the primary responsibility of the Council under Article 24 of the Charter for the maintenance of international peace and security in order to ensure prompt and effective action by the United Nations,

Recalling that, under Article 31 of the Charter, any Member of the United Nations that is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Council whenever the latter considers that the interests of that Member are specially affected,

Recognizing that the imposition of sanctions under Chapter VII of the Charter has been causing special economic problems in third States and that it is necessary to intensify efforts to address those problems effectively,

Taking into consideration the views of third States which could be affected by the imposition of sanctions,

Recognizing that assistance to third States affected by the application of sanctions would further contribute to an effective and comprehensive approach by the international community to sanctions imposed by the Security Council,

Recognizing also that the international community at large and, in particular, international institutions involved in providing economic and financial assistance should continue to take into account and address in a more effective manner the special economic problems of affected third States arising from the carrying out of preventive or enforcement measures taken by the Security Council under Chapter VII of the Charter, in view of their magnitude and of the adverse impact on the economies of those States,

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[15] Ibid., *Fifty-ninth Session, Supplement No. 1* (A/59/1).

[16] See S/PRST/1994/81; see *Resolutions and Decisions of the Security Council, 1994*.

[17] S/1999/92; see *Resolutions and Decisions of the Security Council, 1999*.

Recalling the provisions of its resolutions 50/51 of 11 December 1995, 51/208 of 17 December 1996, 52/162 of 15 December 1997, 53/107 of 8 December 1998, 54/107 of 9 December 1999, 55/157 of 12 December 2000, 56/87 of 12 December 2001, 57/25 of 19 November 2002 and 58/80 of 9 December 2003,

1. *Renews its invitation* to the Security Council to consider the establishment of further mechanisms or procedures, as appropriate, for consultations as early as possible under Article 50 of the Charter of the United Nations with third States which are or may be confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Council under Chapter VII of the Charter, with regard to a solution of those problems, including appropriate ways and means for increasing the effectiveness of its methods and procedures applied in the consideration of requests by the affected States for assistance;

2. *Welcomes* the measures taken by the Security Council since the adoption of General Assembly resolution 50/51, most recently the note by the President of the Security Council of 18 December 2003,[18] whereby the members of the Security Council agreed to extend the mandate of the informal working group of the Council established in 2000[19] to develop general recommendations on how to improve the effectiveness of United Nations sanctions, looks forward to the adoption of the proposed outcome document of the working group, in particular those provisions thereof regarding the issues of the unintended impact of sanctions and assistance to States in implementing sanctions, and strongly recommends that the Council continue its efforts to enhance further the effectiveness and transparency of the sanctions committees, to streamline their working procedures and to facilitate access to them by representatives of States that find themselves confronted with special economic problems arising from the carrying out of sanctions;

3. *Invites* the Security Council, its sanctions committees and the Secretariat to continue to ensure, as appropriate, that:

(a) Both pre-assessment reports and ongoing assessment reports include as part of their analysis the likely and actual unintended impact of the sanctions on third States and recommend ways in which the negative impact of sanctions can be mitigated;

(b) Sanctions committees provide opportunities for third States affected by sanctions to brief them on the unintended impact of sanctions they are experiencing and on assistance needed by them to mitigate the negative impact of sanctions;

(c) The Secretariat continues to provide, upon request, advice and information to third States to help them to pursue means to mitigate the unintended impact of sanctions, for example, on invoking Article 50 of the Charter for consultation with the Security Council;

(d) Where economic sanctions have had severe effects on third States, the Security Council is able to request the Secretary-General to consider appointing a special representative or dispatching, as necessary, fact-finding missions on the

[18] S/2003/1185; see *Resolutions and Decisions of the Security Council, 1 August 2003-31 July 2004*.

[19] S/2000/319.

ground to undertake necessary assessments and to identify, as appropriate, possible ways of assistance;

(e) The Security Council is able, in the context of situations referred to in subparagraph (d) above, to consider establishing working groups to consider such situations;

4. *Requests* the Secretary-General to pursue the implementation of General Assembly resolutions 50/51, 51/208, 52/162, 53/107, 54/107, 55/157, 56/87, 57/25 and 58/80 and to ensure that the competent units within the Secretariat develop the adequate capacity and appropriate modalities, technical procedures and guidelines to continue, on a regular basis, to collate and coordinate information about international assistance available to third States affected by the implementation of sanctions, to continue developing a possible methodology for assessing the adverse consequences actually incurred by third States and to explore innovative and practical measures of assistance to the affected third States;

5. *Welcomes* the report of the Secretary-General containing a summary of the deliberations and main findings of the ad hoc expert group meeting on developing a methodology for assessing the consequences incurred by third States as a result of preventive or enforcement measures and on exploring innovative and practical measures of international assistance to the affected third States,[20] and renews its invitation to States and relevant international organizations within and outside the United Nations system that have not yet done so to provide their views regarding the report of the ad hoc expert group meeting;

6. *Takes note* of the most recent report of the Secretary-General on this question[21] and, in particular, of his views on the deliberations and main findings, including the recommendations of the ad hoc expert group on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions, as well as the views of States, the organizations of the United Nations system, international financial institutions and other international organizations, as contained in the previous reports of the Secretary-General;[22]

7. *Reaffirms* the important role of the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination in mobilizing and monitoring, as appropriate, the economic assistance efforts of the international community and the United Nations system on behalf of States confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council and, as appropriate, in identifying solutions to the special economic problems of those States;

8. *Takes note* of the decision of the Economic and Social Council, in its resolution 2000/32 of 28 July 2000, to continue its consideration of the question of assistance to third States affected by the application of sanctions, invites the Council, at its organizational session for 2005, to make appropriate arrangements for this purpose within its programme of work for 2005, further invites the Council to continue its consideration of the question of assistance to third States affected by the application of sanctions, and decides to transmit the most recent report of the Secretary-General on the implementation of the provisions of the Charter related to

[20] A/53/312.

[21] A/59/334.

[22] See A/54/383 and Add.1, A/55/295 and Add.1, A/57/165 and Add.1 and A/58/346.

assistance to third States affected by the application of sanctions, together with the relevant background materials, to the Council at its substantive session of 2005;

9. *Invites* the organizations of the United Nations system, international financial institutions, other international organizations, regional organizations and Member States to address more specifically and directly, where appropriate, the special economic problems of third States affected by sanctions imposed under Chapter VII of the Charter and, for this purpose, to consider improving procedures for consultations to maintain a constructive dialogue with such States, including through regular and frequent meetings, as well as, where appropriate, special meetings between the affected third States and the donor community, with the participation of United Nations agencies and other international organizations;

10. *Requests* the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, at its session in 2005, to continue to consider on a priority basis and in an appropriate substantive manner and framework the question of the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter based on all of the related reports of the Secretary-General, in particular the 1998 report containing a summary of the deliberations and main findings of the ad hoc expert group meeting convened pursuant to paragraph 4 of General Assembly resolution 52/162,[20] together with the most recent report of the Secretary-General on this question,[21] taking into consideration the forthcoming report of the informal working group of the Security Council on general issues relating to sanctions, the proposals submitted on the question, the debate on the question in the Sixth Committee during the fifty-ninth session of the Assembly and the text on the question of sanctions imposed by the United Nations contained in annex II to Assembly resolution 51/242, as well as the implementation of the provisions of Assembly resolutions 50/51, 51/208, 52/162, 53/107, 54/107, 55/157, 56/87, 57/25, 58/80 and the present resolution;

11. *Decides* to consider within the Sixth Committee or a working group of the Committee, at the sixtieth session of the General Assembly, further progress in the elaboration of effective measures aimed at the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter;

12. *Requests* the Secretary-General to submit a report on the implementation of the present resolution to the General Assembly at its sixtieth session, under the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".